

**ORIGINAL**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

 Petition for Forbearance of the )  
 Cellular Telecommunications Industry )  
 Association )

CC Docket No. 95-116

Telephone Number Portability )

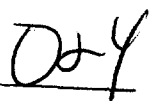
**OPPOSITION OF WORLDCOM, INC.**

WorldCom, Inc. ("WorldCom") hereby files its opposition to the petition for forbearance ("Petition") filed by the Cellular Telecommunications Industry Association ("CTIA") on December 16, 1997 in the above-captioned proceeding. Even more than its petition for waiver -- filed just three weeks prior -- CTIA's forbearance petition has no basis in law or reality. WorldCom urges the Wireless Telecommunications Bureau ("Bureau") not to allow the wireless industry to succeed in its concerted attempts to avoid their duty to implement, and contribute to, local number portability ("LNP"), and thereby deny the American public their right to enjoy the numerous benefits of robust competition.

**I. INTRODUCTION AND SUMMARY**

WorldCom, Inc. is a premier global telecommunications company. Through its wholly-owned subsidiaries WorldCom Technologies, Inc., MFS Telecom, Inc., WorldCom Network Services (d/b/a WilTel Network Services), and UUNET Technologies, Inc., the new WorldCom provides its business and residential customers with a full range of facilities-based and fully integrated local, long distance, international, and Internet services. In particular,

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WorldCom currently is the fourth largest facilities-based interexchange carrier ("IXC") in the United States, as well as a significant facilities-based competitive local exchange carrier ("CLEC") and Internet service provider ("ISP"). WorldCom also provides wireless services on a resale basis through WorldCom Wireless, Inc.

Here we go again. Just two months ago, CTIA filed a petition seeking a delay in the LNP implementation date for wireless service providers at least until March 31, 2000, a full nine months later than the current June 30, 1999 deadline.<sup>1</sup> In its opposition to that petition, WorldCom explained that CTIA's ostensible excuses -- financial strain, preoccupation with network construction, and difficult technological issues -- presented no valid reason meriting delay, and warned the Commission that granting CTIA's request would open the door to further erosion of the LNP timeline.<sup>2</sup>

Now, it seems, CTIA is not content with merely delaying the LNP implementation date, but getting rid of it, and other LNP obligations, altogether, ostensibly until PCS providers have completed their five year build-out period. Aside from the fact that there is scant support for either petition, WorldCom believes it is highly irresponsible, and a significant waste of government and private party resources, for CTIA to present this newest petition at this time. CTIA should not continue to clog the regulatory process with its repetitive and unfounded pleas

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<sup>1</sup> See CTIA Petition for Waiver, CC Docket No. 95-116, filed November 24, 1997.

<sup>2</sup> Opposition of WorldCom, Inc., CC Docket No. 95-116, DA 97-2579, filed January 9, 1998.

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for regulatory relief. Indeed, in the case of this petition, CTIA's two basic points in support of its request -- that the wireless industry is competitive, and that wireless companies have finite resources -- do not even begin to approach the multi-pronged legal standard necessary for the Commission to grant forbearance under Section 10 of the 1996 Act.

## **II. THE COMMISSION SHOULD NOT GRANT CTIA'S FORBEARANCE REQUEST**

The U.S. Congress mandated local number portability in Section 251(b)(2) of the Telecommunications Act of 1996.<sup>3</sup> The language of the statute makes clear that all providers of telecommunications services must contribute to implement LNP, and must themselves implement LNP.

The FCC issued its First Report and Order on local number portability issues on July 2, 1996.<sup>4</sup> The Commission concluded that the Telecommunications Act mandated all carriers to contribute to LNP -- not just new entrants, or local competitors, or wireline carriers. The Commission found in particular that:

the public interest is served by requiring the provision of number portability by CMRS providers because number portability will promote competition between providers of local telephone services and thereby promote competition between providers of interstate

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<sup>3</sup> 47 U.S.C. Section 251(b)(2) (1996).

<sup>4</sup> Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, CC Docket No. 95-116 (1996).

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access services.<sup>5</sup>

The First Report and Order goes on to describe at great lengths the many public interest benefits of promoting competition among all wireless and wireline services. The Commission expressly rejected the claim that wireless number portability is unimportant because the CMRS market is already substantially competitive; instead, the Commission concludes, competition in the wireless markets is limited, and will be further promoted by the advent of LNP.<sup>6</sup> Thus, every wireless provider, as well as every wireline carrier, is required to contribute to support and implement LNP.

In March 1997, the Commission acted on various reconsideration petitions in its First Memorandum Opinion and Order on Reconsideration.<sup>7</sup> In the reconsideration order, the Commission denied requests by wireless providers for additional time to implement wireless LNP, explaining that, for many positive competitive reasons, it is in the public interest for wireless carriers to provide LNP "with as little delay as possible."<sup>8</sup>

Against this crystal-clear background of statutory requirements and FCC mandates, the wireless industry now has decided to ask the Commission to eliminate any

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<sup>5</sup> First Report and Order at para. 153.

<sup>6</sup> Id. at paras. 155-171.

<sup>7</sup> Telephone Number Portability, First Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, adopted March 6, 1997 ("Reconsideration Order").

<sup>8</sup> Id. at para. 135.

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obligation for wireless service providers to implement, or pay for, wireless LNP. In sole support of this far-reaching request, CTIA presents a scanty ten-page petition that reiterates two basic points: (1) the wireless industry is competitive, and (2) wireless companies have limited resources. While the first point certainly is debatable, and the second point undeniable, the fundamental problem is that, even if true, these conclusions do nothing to meet the requirements of Section 10 of the 1996 Act. Merely repeating the mantra of "diverting" their "limited" or "finite resources" or "capital" (by our count, at least 18 separate times in CTIA's text) is not enough to warrant automatic removal of binding regulatory obligations. If it were, every entity regulated by the Commission would make the very same dubious pitch to avoid whatever regulatory requirements they happen to dislike.

Section 10 of the 1996 Act directs that "the Commission shall forbear from applying any regulation or any provision of this Act" to telecommunications carriers or services in one or more geographic markets,<sup>9</sup> provided that three separate determinations are made:

- (1) enforcement of the regulation or provision is not necessary to ensure that charges, practices, classifications or regulations are just and reasonable, and are not unjustly unreasonable or discriminatory;
- (2) enforcement of the regulation or provision is not necessary to protect consumers; and
- (3) forbearance from applying such regulation or provision is

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<sup>9</sup> 47 U.S.C. Section 160(a).

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consistent with the public interest.<sup>10</sup>

The 1996 Act also specifies that "[i]f the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest."<sup>11</sup> The Joint Conference Report notes that the Act "requires" forbearance from "any" regulation or statutory provision if the Commission makes all three findings above.<sup>12</sup> The Joint Conference Report also indicates that the Commission must "forbear from applying" any provision or regulation if it determines that "enforcement is not necessary...."<sup>13</sup>

Application of the mandatory three-part statutory test to the CTIA Petition demonstrates why the Petition should be denied. Just over eighteen months ago, the Commission made a thoroughly supported decision that wireless LNP is in the public interest for the many competitive benefits it will bestow on consumers. Less than one year ago, the Commission expressly reiterated that decision. The obvious fact that there are competitors in the wireless arena does not equate to robust competition in the wireless arena. Indeed, the Commission found that competition will be fostered and fortified with the advent of LNP among

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<sup>10</sup> Id.

<sup>11</sup> 47 U.S.C. Section 160(b).

<sup>12</sup> Joint Explanatory Statement of the Committee of Conference on the Telecommunications Act of 1996, at 68 ("Joint Conference Report").

<sup>13</sup> Joint Conference Report, at 68.

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all providers of local services. Given these conclusions, CTIA cannot argue here that an FCC decision not to enforce its wireless LNP requirement somehow will be in the public interest. In particular, not only would such a decision not promote competition, it will in fact hinder the development of robust competition. No recital of claims about the "new" facts about wireless competition can alter the Commission's extensive and well-founded reasoning on the need for wireless LNP.

Efficient use of scarce numbering resources will also be fostered and fortified with LNP implementation. WorldCom is dismayed that CTIA's Petition completely avoids any discussion of pressing concerns about number exhaust and conservation measures. Number pooling among wireline carriers will be implemented soon after LNP becomes a reality. The Illinois Commerce Commission is requiring a number pooling trial to begin April 1, 1998 in Chicago -- one day after the end of the LNP implementation deadline for Chicago. Regulatory authorities in New York have directed an industry group to issue a request for proposal for an interim number pooling administrator; other states are on the same path toward using number pooling as an aid to stem number exhaust. National standards and guidelines also are being developed. Yet, if the wireless industry does not implement LNP in a timely manner, as in accordance with the Commission mandate, consumers and users of telephone numbers as well as all carriers themselves will suffer because of the lack of competition and the lack of numbers.

Moreover, basing the forbearance request on the five year build-out period for PCS is a recipe for endless delay. Once the five year period has expired, WorldCom expects

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that CTIA would come back to the Commission yet again and argue that the second-generation or third-generation of wireless technology now must be implemented, forestalling spending resources to implement LNP.

WorldCom is a significant facilities-based provider of competitive local exchange company and interexchange services, as well as a provider of wireless services on a resale basis. In both its capacities, WorldCom is well aware that implementation of LNP poses some difficulties, and some expense, for wireline and wireless providers alike. Nonetheless, expense alone is not a sufficient reason that any provider -- wireline or otherwise -- to avoid what the Commission has mandated. The policy debate over benefits versus cost has long been settled in this proceeding, and CTIA's attempt to resurrect it once again is simply misguided.

The Petition pointedly avoids any discussion of the wireless industry bearing its share of LNP costs. WorldCom is concerned that CTIA's true motivation is to avoid paying its equitable portion of LNP costs. So far, WorldCom and several other wireline carriers are shouldering the entire financial burden of implementing LNP. This situation cannot last indefinitely, and the Commission should not allow CTIA's members to avoid their own such obligations.

In short, WorldCom recognizes the importance of building networks and the need to focus limited resources. But Congress and the Commission already have spoken. WorldCom urges the Commission to stay the course on LNP implementation by the wireless industry. The Commission's conclusions in the First Report and Order remain valid and should continue to



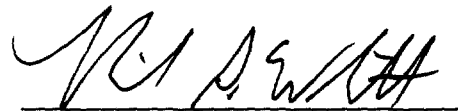
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govern the Commission's actions.

### III. CONCLUSION

The Commission should reject this latest CTIA petition as completely unsupported and contrary to the requirements of Section 10 (as well as Section 251) of the Telecommunications Act of 1996.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. S. Whitt', is written over a horizontal line.

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February 23, 1998

## **CERTIFICATE OF SERVICE**

I, Cecelia Y. Johnson, hereby certify that I have this 23rd day of February, 1998, sent a copy of the foregoing "Comments of WorldCom, Inc." by hand delivery, to the following:

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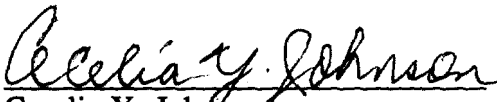
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